

SENATE BILL 2521
By Haynes

AN ACT to amend Tennessee Code Annotated, Title 47, Chapter 18 and Title 62, Chapter 31, relative to the Tennessee employment agency act.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 47, Chapter 18, is amended by adding Sections 2 through 10 of this act as a new part thereto.

SECTION 2. This act shall be known as and may be cited as the "Tennessee Employment Agency Act".

SECTION 3. As used in this act, unless the context otherwise requires:

(1) "Candidate" means any person, whether employed or unemployed, seeking or entering into any arrangement for employment or change of employment through the services of an employment agency;

(2) "Director" means the director of the consumer affairs division;

(3) "Division" means the consumer affairs division;

(4) "Employer" means any person who engages or seeks to engage candidates for employment;

(5) "Employment agency" means any person who, for a fee paid by a candidate or other compensation provided by a candidate:

(A) Places or attempts to place candidates seeking employment where the fee is not paid by the employer;

(B) Recruits or attempts to recruit employees for employers seeking candidates where the fee is not paid by the employer; or

(C) Purports to have access to job leads or compiles and provides lists or information about available jobs, if no fee is charged to the majority of potential employers for inclusion in the listings, and if an office is maintained for the purpose of marketing job information to the public and providing customers with access to that information;

(6) "Fee" means anything of value paid or directed to be paid for the services of an employment agency; and

(7) "Person" means any individual, company, corporation, partnership, association or firm, including any officer, director or employee of a corporation.

SECTION 4. No employment agency, or employer thereof, shall:

(1) Impose any fee on candidates except for furnishing of employment directly or indirectly through the efforts of such employment agency;

(2) Impose any fee on any candidate prior to the time at which that candidate has secured a job;

(3) Engage or attempt to engage in the splitting or sharing of fees with an employer, or an employee of an employer, to whom employment agency services have been furnished;

(4) Make, give, or cause to be made or given to any candidate any false promise, misrepresentation, or inaccurate or misleading statement or information;

(5) Procure or attempt to procure the discharge of any person from his employment;

(6) Induce or attempt to induce any employee placed by the employment agency to leave his employment, except upon request made and initiated by such employee;

(7) Knowingly refer any candidate to employment which is prohibited by law, or deleterious to health or morals;

(8) Refer any candidate for an interview without having first obtained, either orally or in writing, a bona fide job order or recruiting assignment from an employer for an interview;

(9) Make or cause to be made or use any name, sign, or advertising device bearing a name which may be reasonably confused with the name of a government agency;

(10) Knowingly publish or cause to be published any false, fraudulent, deceptive or misleading information, representation, permission, notice or advertisement;

(11) Require any candidate to contract with a specified lending agency to pay employment agency service charges; or

(12) Knowingly and willfully violate any law of this state or the United States.

SECTION 5. If a candidate accepts candidate-paid fee employment and is terminated by his employer through no cause of the candidate within four (4) weeks after beginning work, the employment agency shall, within thirty (30) days, refund any fee paid by the candidate. During such thirty (30) days, the employment agency shall, if requested, attempt to place the candidate in similar employment.

SECTION 6. The division, upon the complaint in writing of any person, shall investigate any person or employment agency covered under this act. The division shall promptly transmit any such complaint within ten (10) days of receipt to the accused person or employment agency by registered or certified mail.

SECTION 7. The provisions of the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5, shall govern all matters and procedures respecting the hearing and judicial review of any contested case arising under this act.

SECTION 8. (a) The division is authorized to promulgate such rules as are reasonably necessary to effectuate the purposes of this act.

(b) All such rules shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5.

SECTION 9. (a) The division may seek relief at law or equity to restrain or enjoin any act or practice in violation of this act or any rule duly promulgated thereunder.

(b) Jurisdiction is conferred upon the chancery and circuit courts of this state to hear and determine such a suit.

(c) No bond shall be required for the prosecution of the suit, or for the issuance of an injunction or restraining order.

SECTION 10. (a) A violation of the provisions of this act, or any rule duly promulgated thereunder, is a Class C misdemeanor.

(b) Each day of such violation constitutes a separate offense.

SECTION 11. Tennessee Code Annotated, Title 62, Chapter 31, is amended by deleting such chapter in its entirety.

SECTION 12. This act shall take effect on July 1, 1996, the public welfare requiring it.

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